

1 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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17-CV-5967 (NGG)  
3 KELLEY AMADEI, ET AL,  
4 Plaintiffs, United States Courthouse  
Brooklyn, New York  
5 -against- February 9, 2018  
11:30 a.m.  
6 ELAINE DUKE, ET AL,  
7 Defendants.  
8 -----x

9 TRANSCRIPT OF CIVIL CAUSE FOR PRE MOTION CONFERENCE  
10 BEFORE THE HONORABLE NICHOLAS G. GARAUFIS  
UNITED STATES SENIOR DISTRICT JUDGE

11 APPEARANCES

12 Attorney for Plaintiff: AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
13 125 Broad Street, 18th Floor  
New York, New York 10004  
14 BY: HUGH HANDEYSIDE, ESQ.  
CECILIA D. WANG, ESQ.  
15 -and-  
COVINGTON & BURLING LLP  
16 620 Eighth Avenue, 42nd Floor  
New York, New York 10018  
17 BY: NEIL K. ROMAN, ESQ.  
JOSHUA B. PICKER, ESQ.  
18  
19 Attorney for Defendant: UNITED STATES ATTORNEY'S OFFICE  
Eastern District of New York  
20 271 Cadman Plaza East  
Brooklyn, New York 11201  
BY: DARA A. OLDS, AUSA  
21  
22 Court Reporter: Georgette K. Betts, RPR, FCCR, CCR  
Phone: (718) 804-2777  
23 Fax: (718) 804-2795  
Email: Georgetteb25@gmail.com

24 Proceedings recorded by mechanical stenography. Transcript  
25 produced by computer-aided transcription.

1 nature of the claims to stay discovery. We have submitted  
2 targeted and limited requests already since her ruling. And  
3 her ruling wasn't clearly erroneous, so we would argue that  
4 discovery should proceed in due course. Memories fade, the  
5 burden on the defendants is not particularly onerous. We want  
6 to find out more about these factual issues that we -- as I've  
7 said, that are so critical to the adjudication of these  
8 claims, that can proceed without prejudicing defendants in --  
9 as the motion to dismiss is briefed.

10 MS. OLDS: Our concern, Your Honor, if I may, is  
11 just as I mentioned, having to produce documents, internal  
12 documents on a claim that there may be no jurisdiction for at  
13 all. Judge Scanlon found -- in part, she denied our motion on  
14 the grounds that memories tend to fade, but we think that if  
15 that were case, then there would never be a stay for  
16 discovery. So we think this is a case where it is appropriate  
17 for the court to stay discovery and determine the  
18 jurisdictional issue and whether the complaint is sufficient  
19 and if the Court finds it is, then proceed with discovery at  
20 that point.

21 THE COURT: I see. Well, this is also a case which  
22 involves inferentially claims that people are being targeted  
23 for inspection without good cause or justification, and in an  
24 environment where there is proactive enforcement of the  
25 immigration laws in ways that may be in violation of the

1 constitutional rights of citizens and non-citizens alike, so  
2 we need to get to the bottom of this and fast. And if there  
3 is going to be a rule making, let there be a rule making, but  
4 if there's no APA basis upon which to do something like this  
5 on a domestic flight, then it needs -- potentially it needs  
6 close scrutiny by the Court and I'm sure someone's available  
7 to conduct the discovery on behalf of the defendants.

8 So the motion to stay discovery is denied. Okay.  
9 Thank you. Have a nice day.

10 MR. HANDEYSIDE: Thank you, Your Honor.

11 MS. OLDS: Thank you, Your Honor.

12 (Matter concluded.)

13 \* \* \* \* \*

14 I certify that the foregoing is a correct transcript from the  
15 record of proceedings in the above-entitled matter.

16  
17 s/ Georgette K. Betts

September 14, 2018

18 GEORGETTE K. BETTS

DATE